IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.175 OF 2006

The Maharashtra State Co-operative Cotton Growers Federation Ltd. ...Petitioner.

vs.

M/s.Mahindrakar Spinning Mills Pvt.Ltd. ..Respondent.

Ms.S.U.Deshmukh, for Petitioner.

Mr.J.P.Kharge with Shrishail Sakhare, for Respondent.

CORAM: D.K.DESHMUKH,J.

DATED: 11th September,2006.

P.C.:-

1. By this petition the petitioner challenges the Award made by the sole Arbitrator dated 30.12.2004 which is at Exhibit B to the petition and the Award made by the Appellate Authority dated 17.11.2005. The reference to arbitration arose out of Section 38 of the Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act.1971. The reference of dispute was made to the East India Cotton Association. The petitioner had made a claim of certain amount towards difference in price of the cotton bales and

certain amount on account of carrying charges. The petitioner also claimed interest on these amounts.

2. An objection to the maintainability of the claim was raised by the Arbitrator that the claim is barred by limitation as the claim has not been made within a period of 3 years from the date of accrual of cause of action. The petitioner had pointed out that the petitioner Maharashtra State Co-operative Cotton Growers Federation Ltd. has been appointed as agent of the State Government under the Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act.1971 and in the statement of claim the petitioner has stated that it is making claim in its capacity as agent of the State Government and the claim is being made by it on behalf of the State Government and therefore, the period of limitation under the provisions of Limitation Act would be Thirty years from accrual of cause of action and not three years. This contention was rejected by the original Arbitral Tribunal by holding that Article 112 of the Limitation Act provides for limitation for filing suit and not for taking out arbitration proceedings. Assuming that this is a statutory arbitration and therefore the provisions of Section 43 of the Act are not applicable, then also the Rules of Arbitration of East India Cotton Association themselves laid down that the provisions of the Limitation Act shall apply to the arbitrations as it apply to proceedings in Court. Therefore, the provisions of the Limitation Act were applicable and therefore, it was a duty of the Arbitrator to examine the contention of the petitioner that because it was making the claim on behalf of

the State Government, it was entitled to the period of limitation provided by Article 112 of the Limitation Act. The original Arbitral Tribunal as well as the Appellate Arbitral Tribunal has wrongly rejected the contention of the petitioner that the period of limitation is governed by Article 112 of the Limitation Act, without properly appreciating the provisions of the Rules of Arbitration of East India Cotton Association as also the provisions of the Limitation Act and the Arbitration & Conciliation Act. Both the Awards therefore are liable to be set aside. They are accordingly, set aside. No order as to costs.